

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MELISSA TOMLIN,

Plaintiff,

vs.

No. CV-17-1084 WJ/GBW

DENISE SANCHEZ, et al.,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

This matter is before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition ("PFRD") (Doc. 41), recommending that the Court grant Defendants' Motion for Summary Judgment (Doc. 38) based on failure to exhaust and qualified immunity.

This case was referred to the Magistrate Judge to conduct hearings and perform legal analysis pursuant to 28 U.S.C. § 636(b)(1)(B), (b)(3) and *Virginia Beach Federal Savings & Loan Association v. Wood*, 901 F.2d 849 (10th Cir. 1990). *See* Doc. 3. The Magistrate Judge filed his PFRD recommending dismissal on January 29, 2019. Doc. 41. Although the Court granted Plaintiff an additional thirty (30) days in which to file her objections (Doc. 43), neither Plaintiff nor Defendants filed objections to the Magistrate Judge's PFRD within the allotted time. Appellate review of these issues is therefore waived. *See United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1059–60 (10th Cir. 1996). Failure to object to the PFRD also waives the right to *de novo* review by the district court. *See id.* at 1060; *Thomas v. Arn*, 474 U.S. 140, 149–150 (1985). Nevertheless, the Court has decided, *sua sponte*, to conduct a *de novo* review of the Magistrate

Judge's findings in this case. *See One Parcel*, 73 F.3d at 1061. The Court hereby concurs with all of the factual and legal conclusions recited therein.

Wherefore, IT IS HEREBY ORDERED that the Magistrate Judge's Proposed Findings and Recommended Disposition (Doc. 41) is ADOPTED. Defendants' Motion (Doc. 38) is GRANTED, and this case is DISMISSED WITH PREJUDICE.



CHIEF UNITED STATES DISTRICT JUDGE